

## Message Text

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ORIGIN L-03

INFO OCT-01 AF-10 ARA-06 EUR-12 EA-07 NEA-10 IO-13  
ISO-00 EB-08 SIG-01 MMO-01 CIAE-00 DODE-00 PM-04  
H-01 INR-07 NSAE-00 NSC-05 PA-01 PRS-01 SP-02  
SS-15 USIA-06 AID-05 OMB-01 TRSE-00 /120 R

DRAFTED BY L:MBFELDMAN:CDJ  
APPROVED BY L:MBFELDMAN  
L/EB:SBENSON  
EB/IFD/OIA:GMITCHELL  
IO/IEP:RPOOLE

-----141808Z 074699 /53

P R 141534Z APR 77  
FM SECSTATE WASHDC  
TO USMISSION USUN NEW YORK PRIORITY  
USMISSION GENEVA PRIORITY  
AMEMBASSY CANBERRA PRIORITY  
AMEMBASSY BRUSSELS PRIORITY  
AMEMBASSY OTTAWA PRIORITY  
AMEMBASSY PARIS PRIORITY  
AMEMBASSY BONN PRIORITY  
AMEMBASSY ROME PRIORITY  
AMEMBASSY THE HAGUE PRIORITY  
AMEMBASSY OSLO PRIORITY  
AMEMBASSY STOCKHOLM PRIORITY  
AMEMBASSY BERN PRIORITY  
AMEMBASSY LONDON PRIORITY  
AMEMBASSY TOKYO PRIORITY  
AMEMBASSY ALGIERS PRIORITY  
AMEMBASSY BOGOTA PRIORITY  
AMEMBASSY MEXICO PRIORITY  
AMEMBASSY LAGOS PRIORITY  
AMEMBASSY ISLAMABAD PRIORITY  
AMEMBASSY FREETOWN PRIORITY  
AMEMBASSY CARACAS PRIORITY  
AMEMBASSY KINSHASA PRIORITY  
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AMEMBASSY TEHRAN PRIORITY  
INFO ALL DIPLOMATIC POSTS

C O N F I D E N T I A L STATE 083771

E.O. 11652: GDS

TAGS: EINV, EGEN, ECOSOC, UN

SUBJECT: MTG OF ECOSOC WORKING GROUP ON ILLICIT PAYMENTS/  
CORRUPT PRACTICES

REF: (A) USUN 989 (NOTAL) (B) STATE 59669

BEGIN UNCLASSIFIED

1. ECOSOC-ESTABLISHED AD HOC WORKING GROUP ON THE PROBLEM OF CORRUPT PRACTICES HELD ITS THIRD SESSION MARCH 28 - APRIL 8 IN NEW YORK. GROUP REPRESENTS BOTH DEVELOPED AND DEVELOPING COUNTRIES, ALTHOUGH MAJORITY OF FORMER, WITH EXCEPTION OF U.S. AND JAPAN, PARTICIPATE AS OBSERVERS. FARROKH PARSI OF IRANIAN MISSION TO UN WAS ELECTED CHAIRMAN TO REPLACE AMB. RAFAEL RIVAS OF COLOMBIA WHO HAS LEFT NEW YORK. NEW COLOMBIAN DEPUTY PERMREP, DR. JOSE BOTERO, WAS ELECTED VICE CHAIRMAN. OTHER OFFICERS INCLUDE VICE CHAIRMAN JUNICHI NAKAMURA OF JAPAN AND RAPPORTEUR HAROLD E.L. ACEMAH OF UGANDA.

2. GROUP CONCLUDED SESSION WITH SUBSTANTIVE REVIEW OF DRAFT ARTICLES OF POSSIBLE INTERNATIONAL AGREEMENT ON ILLICIT PAYMENTS PREPARED BY SECRETARIAT AT REQUEST

OF WORKING GROUP. DISCUSSIONS PROCEEDED WITHOUT PREJUDICE AS TO POSITION OF ANY GOVERNMENT OR AS TO FORM OF INSTRUMENT IN WHICH TEXTS ULTIMATELY MIGHT BE USED. WORKING GROUP SCHEDULED RESUMED SESSION FOR CONFIDENTIAL

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JUNE 27 - JULY 1 IN GENEVA TO COMPLETE ITS MANDATE TO REPORT TO ECOSOC THIS SUMMER. WORKING GROUP ALSO DIRECTED THE TNC CENTER TO PREPARE, UNDER SUPERVISION OF RAPPORTEUR, REVISED ARTICLES TAKING INTO ACCOUNT INFORMAL DISCUSSIONS DURING THIRD SESSION. THESE REVISED TEXTS WILL BE ANNEXED, ALONG WITH ORIGINAL WORKING PAPER PREPARED BY CENTER, TO DRAFT REPORT TO BE PRESENTED TO RESUMED SESSION OF WORKING GROUP BY RAPPORTEUR.

3. IN SECOND WEEK OF THIRD SESSION OF WORKING GROUP DISCUSSION IN INFORMAL SESSIONS MOVED FROM SECRETARIAT WORKING PAPERS TO DRAFT TEXTS OF PROVISIONS THAT ULTIMATELY MIGHT BE INCLUDED IN AN INTERNATIONAL AGREEMENT ON ILLICIT PAYMENTS. MOST DELEGATIONS SUPPORTED PROVISIONS EMPHASIZING HOST COUNTRY RESPONSIBILITY FOR PROHIBITION OF BRIBERY AND INTERNATIONAL COOPERATION THROUGH EXCHANGE OF INFORMATION, JUDICIAL ASSISTANCE AND EXTRADITION, ALTHOUGH SEVERAL DELEGATIONS

NOTED THEY DO NOT EXTRADITE NATIONALS. U.S. PROPOSALS FOR HOME COUNTRY PENAL SANCTIONS WERE WELCOMED BY IRAN AND SOME OTHER LDCS. WESTERN GROUP (WEO) REACTIONS RANGED FROM CAUTIOUSLY POSITIVE (CANADA AND NETHERLANDS) TO SERIOUS DOUBTS (JAPAN AND FRG). BELGIUM INDICATED ITS LAW CONTEMPLATES SUCH JURISDICTION PROVIDED THE ACT IS ALSO CRIMINAL IN THE STATE WHERE IT IS COMMITTED AND THE HOST GOVERNMENT REQUESTS BELGIUM PROSECUTION. IRAN AND NIGERIA SUPPORTED PUBLIC DISCLOSURE OF AGENTS' FEES ON GENERAL LINES OF U.S. PROPOSALS BUT ALL WEOS OBJECTED TO PUBLIC DISCLOSURE PROVISIONS. USDEL INFORMALLY, AND ON PERSONAL BASIS, EXPLORED POSSIBILITY OF A SYSTEM OF EXCHANGE OF INFORMATION AMONG GOVERNMENTS CONCERNING AGENTS' FEES BACKED UP BY HOME AND HOST COUNTRY PENAL SANCTIONS FOR FAILURE TO REPORT AND FALSE REPORTING COUPLED WITH VOLUNTARY PROVISIONS FOR PUBLIC DISCLOSURE OF AGENTS' CONFIDENTIAL

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FEES WHICH PROVISIONS MIGHT BECOME OBLIGATORY UPON RATIFICATION OF THE AGREEMENT BY A CERTAIN NUMBER OF STATES. REACTIONS WERE NON-COMMITTAL.

4. WEOS (OTHER THAN U.S.) REGISTERED STRONG OBJECTIONS TO SECRETARIAT TEXT CALLING FOR PUBLIC DISCLOSURE OF POLITICAL CONTRIBUTIONS, PROHIBITION OF FAVORABLE TAX

TREATMENT FOR FOREIGN BRIBES, AND CIVIL REMEDIES SUCH AS INVALIDATION OF CONTRACTS PROCURED BY BRIBERY. USDEL INDICATED IT FOUND MERIT IN PROHIBITING TAX DEDUCTIONS FOR FOREIGN BRIBES AND MAINTAINED NEUTRALITY ON OTHER TWO ISSUES.

5. AFRICANS MADE STRONG STATEMENTS IN SUPPORT OF PROVISIONS THAT WOULD PROHIBIT PAYMENTS OF ROYALTIES AND TAXES TO ILLEGAL REGIMES IN CONTRAVENTION OF UN RESOLUTIONS. WEO DELS, WHILE EXPRESSING SYMPATHY WITH AFRICAN CONCERNS, NOTED THAT THESE ISSUES ARE UNDER ACTIVE DISCUSSION IN CONNECTION WITH THE SECURITY COUNCIL AND WOULD BE INAPPROPRIATE IN CONTEXT OF AN INTERNATIONAL AGREEMENT ON BRIBERY. FURTHER POINT WAS STRONGLY MADE THAT GOVERNMENTS WOULD NOT BE READY TO ACCEPT OPEN-ENDED LEGAL OBLIGATION TO COMPLY WITH GENERAL ASSEMBLY RESOLUTIONS. AFRICANS INSISTED THIS ISSUE MUST BE INCLUDED IN INTERNATIONAL AGREEMENT ON ILLICIT PAYMENTS BUT APPEARED FLEXIBLE ON DETAILS.

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6. THROUGHOUT THE MTG MAIN POLITICAL PROBLEM WAS CONTINUED INSISTENCE BY MEXICAN AND VENEZUELAN DELS THAT ILLICIT PAYMENTS ISSUE SHOULD BE DEVELOPED WITHIN  
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THE BROADER FRAMEWORK OF CODE OF CONDUCT. THESE DELS DID NOT WISH WORKING GROUP TO TAKE ANY OFFICIAL ACTION TO COMMENCE DRAFTING PROCESS. USDEL LEARNED SOME OTHER LDCS SUPPORTED THIS VIEW IN G-77 MTGS, BUT STRONG IRANIAN CHAIRMAN WAS ABLE TO ACHIEVE G-77 SUPPORT FOR THE PROCEDURE DESCRIBED PARA 1 ABOVE. WHEN ISSUE WAS RAISED IN FORMAL MTGS, UK OBSERVER, IN MOVE WHICH THREATENED DELICATE COMPROMISE UPON WHICH GROUP'S WORK WAS PROCEEDING, ARGUED IT WAS PREMATURE FOR WORKING GROUP TO DECIDE NOW THAT TEXTS WOULD BE ANNEXED TO ITS REPORT. FRG AND ITALIAN OBSERVERS ALSO EXPRESSED RESERVATIONS ABOUT ANY SUBSTANTIVE REPORT ON AN INTERNATIONAL AGREEMENT TO SUMMER ECOSOC. HOWEVER, MEMBERS, INCLUDING USDEL, ACCEPTED PROCEDURE SUGGESTED BY CHAIRMAN.

7. WORKING GROUP MADE MORE PROGRESS THIS ROUND THAN U.S. HAD ANTICIPATED. DESPITE LACK OF ANY CONSENSUS ON BASIC POLITICAL QUESTIONS, GROUP IS NOW ENGAGED IN FULL SUBSTANTIVE DISCUSSION AND ACTUAL DRAFTING OF

DOCUMENTS. EFFORTS OF USUN AND TEHRAN WERE ESPECIALLY HELPFUL IN OBTAINING THIS RESULT. U.S. ANTICIPATES JUNE SESSION WILL ADVANCE WORK STILL FURTHER, BUT THAT BASIC QUESTIONS WILL BE LEFT FOR ECOSOC DECISION TOWARDS THE END OF JULY. OPTIMUM RESULT FROM U.S. STANDPOINT WOULD BE ECOSOC DECISION TO CONVENE DIPLOMATIC CONFERENCE TO PREPARE INTERNATIONAL AGREEMENT FOR ADOPTION BY GENERAL ASSEMBLY IN 1978.

8. NEXT CRITICAL PHASE IS APPROVAL BY SPRING ECOSOC (APRIL 12 - MAY 13) OF PROCEDURAL RECOMMENDATIONS OF WORKING GROUP. FINAL REPORT OF GROUP IS DUE TO BE SUBMITTED TO SUMMER ECOSOC (JULY - AUGUST). HOWEVER, ON PRESENT SCHEDULE FINAL REPORT OF GROUP WILL NOT BE READY IN TIME TO MEET ECOSOC PREFERENCE FOR  
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RECEIPT OF REPORTS SIX WEEKS IN ADVANCE OF ITS MTGS.

USUN WILL HAVE TO MAKE MAJOR EFFORT TO OVERCOME  
SOVIET AND OTHER OBJECTIONS TO THIS COMPRESSED  
SCHEDULE. WE ALSO MAY NEED ASSISTANCE IN CAPITALS  
ON THIS ISSUE.

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## Message Attributes

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**Review Markings:**  
Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
22 May 2009  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009